

IN THE UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF PENNSYLVANIA

DERRICK R. COOMBS
Plaintiff

Vs.

ROBERT W. MYERS, ET.AL.
Defendants

No. 1: CV-01-0247

(Currently Judge Rambo)

FILED
HARRISBURG

AUG 09 2001

MARY E. D'ANDREA, CLERK
Per _____
DEPUTY CLERK

MOTION TO REPLY / REPLY TO COUNTERCLAIM
AND NEW MATTER PLEADED IN DEFENDANTS REPLY TO PLAINTIFFS REPLY AND DISCOVERY MOTION

To; The Honorable Judge Rambo, and Judges of this Honorable Court;

COMES NOW: Plaintiff, Derrick R. Coombs, and respectfully responds to new matter as has been raised in defendants reply brief, to my reply brief. If leave is required for this filing, I pray for same, please. If it is not, I represent as follows:

1. Defendants are smokescreening this Honorable Court again, as follows;

Defendants now attempt to claim in their answer that "Only one issue can be raised at a time in the grievance process!" This is false; Our inmate handbook, at DC ADM. 804 Consolidated Inmate grievance review system" at VI. A. 5. "PROCEDURES" Provides, in relevant part, verbatim;

"Grievances and appeals based on different events should be presented separately UNLESS it is necessary to combine the issues to support the claim." The grievance officer may combine multiple grievances which relate to the same subject."

There is no "rule that only one issue may be raised in a grievance" and, defendants have perpetrated yet another fraud on this Honorable Court.

I properly combined my issues, regarding my illegal transfer, my being forced to perform involuntary servitude, and my resulting serious bodily injury that has placed me unconstitutionally twice in jeopardy of life or limb, and caused me cruel and inhuman/unusual punishment. I also requested monetary damages, and state processed pardon for this. There is no limit on what you can request for relief in grievance process either.

2. I provided defendants counsel with the "final review order" of that grievance, and hence the grievance number. He offers no explanation, about where the records went, that relate to this grievance.?? Yet continues to try to shove a fraud on this Court.

2. I submitted to this Court, the instructions/rules for inmate grievances, which very plainly states, that "Administrative transfers are not grievable." Per-se, Mr. Cawley has disregarded this, and chastises me for "using request slip" to address this, sorry, but, that request slip, was the "only available remedy I had" in that matter, per rules.

3. Defendants disregard my very clear claim that I have been expressly told; "Unless I take their program" (which requires admission of guilt) I will never be paroled, and I have already been retaliated against, and refused to be recommended for parole for the exact and specific reason that I refuse to falsely incriminate myself, and take this Unconstitutional program. This is, clearly compelled self incrimination, and illegal.

4. Defendants claim, I did not exhaust my grievance regarding my phone, to "final review" I told this Hon. Court, and defendants, that I did. And, that I have the "final review order" I was, conscientious enough to once again, provide defendants, with the Grievance number, relating to this. This could be easily verified, unless, Mr. Cawley's clients have fraudulently concealed/destroyed these records, in which case I renew my (prior very clear request, for their criminal prosecution for this) If they persist in this claim, I will show them the final review order at trial, and let them explain their fraud to the jury.
5. Plaintiff has never been cited by DOC, for "misuse of grievance system" and Mr. Cawley is injecting his own opinion, and facts not in evidence here, and his answer should be (Sic,) His answer, should be stricken. This is another fraud on this Honorable Court.
6. My exhibit showing there is no appeal from rejected grievance, was merely to show the Court, "there is no appeal from a rejected grievance" None of my grievances in regard to the issues before the court, were ever rejected, and this is irrelevant.
6. There is no "grievance allowed" regarding misconduct issues, as I submitted the Court evidence of this, I was told, "cannot use grievance procedure" must appeal misconduct" I did, exactly that, and exhausted all remedies as available to me in that matter.

I have, complied with all my obligations, my issues are properly exhausted by any means available to me. And defendants know, or should know this, and yet continue to perpetrate a fraud, on this Honorable Court. Thier answers should be stricken, and their motion denied. My allegations, are to be accepted as true. Their mere statements to the contrary, are not sufficient to overcome my evidence.

7. Lastly, Mr. Horn, is properly in this. The letter I sent, was addressed to Mr. Horn, and he had to have read it, to refer it ot his subordinate, he is a proper defendant.

And has failed to properly train, supervise or control his subordinates, including the pone who sent me a responce specifically, "On Mr. Horns behalf."

8. Closing, I wish to clarify, I expressly said, I am illegally convicted and wrongfully imprisoned, within this Com. Defendants apparantly disregarded that clear statement also.

I intend, to clear my name of these false accusations, and will not be compelled to falsely incriminate myself, nor tolerate being refused parole, because I refuse to give a bogus "confession" and falsely incriminate myself, to get into defendants program.

REGARDING DEFENDANTS MOTION TO DISMISS DISCOVERY REQUEST AS MOOT:

1. To date of this writing, my discovery request has NOT been complied with. There is nothing moot, about this. Mootness will occur, when defendants provide me the requested discovery items, and not until. They have failed to do so. I renew my motion the Court ORDER them, to comply with this discovery request, they have unjustly stalled and delayed.
2. I advise the court, I wrote Mr. Cawley, a very nice letter, praising him for his prior seeming willingness to help me with this discovery, contrary to his claim, and thanking him, for his kindness, and co-operation. This was before I learned he snowballed me.

He sent me a reply ignoring what I said, telling me "he represents the Com.! oh well. Now he "would suggest I do what I already did" amazing, utterly amazing.

WHEREFORE: It is respectfully averred and prayed that;

- A. Defendants answer be stricken, for fraud upon this Honorable Court; And/or, their motion to dismiss this matter be DENIED and this matter scheduled for Jury trial as requested.
- B. Defendants be ORDERED to comply with discovery as requested, and their "Motion to dismiss that as moot" be considered another fraud on this court, because nothing is moot in this matter, and same be stricken also, for fraud, and bad faith. 1.

1. See footnote;

Respectfully Submitted;

Derrick R. Coombs
Derrick R. Coombs #CF1800
Box 200 Camp Hill Pa.
17001-0200

PROOF OF SERVICE:

I hereby certify I have this 5th day of August, 2001, served the within "Motion to reply/ reply to counterclaim and new matter pleaded in defendants reply to plaintiffs reply and discovery motion" on the parties below by deposit in prison mail, addressed as follows;

Clerk of Court U.S. District Ct.
228 Walnut St. Box 983
Hbg. Pa. 17108

Mr. Patrick Cawley DAG
Office of Atty. General
15th floor Strawberry Square
Hbg. Pa. 17120

Signed in accordance with FRCP Rule 11, and submitted under penalty of perjury;

Respectfully Submitted;

Derrick R. Coombs
Derrick R. Coombs #CF1800
Box 200 Camp Hill Pa.
17001-0200

1. Footnote;

Plaintiff respectfully points out, error in defendants argument regarding FRAP Rule 23(a) This rule, must specifically applies to and is directed at STATES Prisoners, NOT federal, and expressly provides, THE PERSON (Nott, General DOC) having custody of the prisoner MUST NOT, OR PREVIOUSLY, AS WRITTEN SHALL NOT TRANSFER CUSTODY, TO ANOTHER PERSON without first, applying for court order, and naming new custodian as new respondent. Defendants argument, is way off base and an evasive fraud here, as well.

Named respondent was RAYMOND J. SOBINA, not "Pa. DOC" and, no court order was given for my (illegal retaliatory, and obstructive transfer, which resulted in my injury, in a prison I was being held in illegally, and without authority, or jurisdiction, by Myers.

And am still being held, illegally, and w/o jurisdiction, in a furtherance thereof, by defendant Dragovich, who also has no lawful authority over me, in violation of said rule Myers lack of authority, deprived him of authority to re-transfer me here, as well.